

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA

v.

TZVI LEXIER,

Defendant.

Criminal Nos. 1:14-cr-397-4

**RESPONSE TO JURISDICTIONAL CHALLENGE**

Tzvi Lexier (“the defendant”) was the Chief Executive Officer and, along with his relatives, a member of the board of directors of SB Medical and TC Medical. The defendant’s companies and six of his employees have all pled guilty in this Court to conspiracy charges, among others, stemming from a multiyear scheme to smuggle misbranded pharmaceuticals into the United States and to distribute them to American doctors and patients, including those located in the Eastern District of Virginia. The defendant was arrested in Toronto, Canada on June 24, 2015. His extradition hearing has been delayed several times at the defendant’s request and is now set for July 28, 2016.

The defendant has filed a “Jurisdictional Challenge,” contesting this Court’s jurisdiction to hear this case. The challenge is frivolous. The United States has a long history of prosecuting foreign nationals who conspire from abroad to cause crimes to be committed in the United States. *See United States v. Bowman*, 260 U.S. 94, 98-101 (1922); *Ford v. United States*, 273 U.S. 593, 623 (1927) (“a man who outside of a country willfully puts in motion a force to take effect in it is answerable at the place where the evil is done”).

This remains the law today. *See United States v. Ayesh*, 702 F.3d 162, 165-66 (4th Cir. 2012) (rejecting challenge to extraterritorial jurisdiction, citing *Bowman*); *United States v.*

*MacAllister*, 160 F.3d 1304, 1308 n.8 (11th Cir. 1998) (“On authority of *Bowman*, courts have routinely inferred congressional intent to provide for extraterritorial jurisdiction over foreign offenses that cause domestic harm”); *United States v. Vilar*, 729 F.3d 62, 70 (2d Cir. 2013) (holding that *Bowman* is still good law). Accordingly, the United States can—and frequently does—prosecute foreign nationals who conspire to smuggle illegal drugs into and distribute them within the United States, even if the defendants never themselves step foot in this country. *See, e.g., United States v. Manuel*, 371 F.Supp.2d 404, 409 (S.D.N.Y. 2005) (“Where, as here, the object of a conspiracy is the violation of American law, and co-conspirators committed extensive overt acts within American territory, there can be no serious question of the jurisdiction of the United States to punish all members of the conspiracy.”).

Here, the indictment alleges that the defendant conspired to smuggle misbranded pharmaceuticals into the United States and distribute them to American doctors and patients, including those located in the Eastern District of Virginia. The indictment alleges that several co-conspirators committed overt acts in furtherance of the conspiracy within the United States and this district, and indeed, several co-conspirators have pled guilty and admitted to doing just that. Therefore, there is no serious question about the Court’s jurisdiction over the defendant or this case.

**CONCLUSION**

For the forgoing reasons, the defendant's "Jurisdictional Challenge" should be denied.

Respectfully submitted,

Dana J. Boente  
United States Attorney

By:                     /s/                      
Kellen S. Dwyer  
Jay V. Prabhu  
Assistant United States Attorneys  
United States Attorney's Office  
Eastern District of Virginia  
2100 Jamieson Avenue  
Alexandria, Virginia 22314  
Ph: (703) 299-3700  
Fax: (703) 299-3981  
Email: kellen.dwyer@usdoj.gov

Date: June 22, 2016

**Certificate of Service**

I hereby certify that on June 22, 2016, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of filing (NEF) to counsel of record for the defense.

By:                     /s/                      
Kellen S. Dwyer  
Assistant United States Attorney  
United States Attorney's Office  
Eastern District of Virginia  
2100 Jamieson Avenue  
Alexandria, Virginia 22314  
(703) 299-3707 office, (703) 299-3981 fax  
kellen.dwyer@usdoj.gov